

**LILLIAN GILDEN**

145 East 74 Street  
New York, NY 10021  
ldgilden@gmail.com

November 12, 2009

Hon. Burton R. Lifland  
United States Bankruptcy Court  
One Bowling Green, 6th Floor  
New York, NY 10004

**OBJECTION TO TRUSTEE'S CLAIM DETERMINATION**

*Re: Bernard L. Madoff Investment Securities LLC  
SIPA Liquidation -- Adv. Pro No. 08-01789  
Lillian Gilden, Claim No. 000819  
BMLIS Account Number 1CM282*

Dear Judge Lifland,

My name is Lillian Gilden and I was an investor in Bernard L. Madoff Investment Securities LLC ("BLMIS"). I am 74 years old and have been a self-supporting, single woman of relatively modest means for more than 25 years. The Madoff fraud left me without any present means to support myself. Aside from an undeveloped property in Massachusetts, itself bogged down in litigation, this money represented essentially everything I had. Though the amount invested was small by comparison to the large sums that most others invested, it was an enormous sum for me.

More than 17 years ago, I invested my entire life's savings of \$290,000 with BLMIS. I made withdrawals over the years to pay taxes, support my elderly mother and my children's needs, but mainly, this money was intended to support my eventual retirement. At the time the fraud was discovered, I showed a final statement balance of \$487,952.65. I have heard that many other investors' "profits" were routinely above 50%, 75%, and even in excess of 100% during some years. If that is true, those investors should not have the right to participate in any distribution from the estate; whether they had actual knowledge of the fraud or not, such impossibly high returns should have put anyone on notice that something was amiss and, as a matter of equity, those claimants should, at minimum, get to the end of the line and perhaps even be forced to repay the fictitious "profits" they withdrew over the years.

In my case, however, the returns were not exceptional, even during the boom years of the late 1990's. Rarely were returns in excess of 12% in any single year, and many years were in the vicinity of 8-9% -- hardly the kind of returns that would have suggested to me that something was suspect here. In point of fact, even taking into account the withdrawals that I made, my overall return over the 17 years my money sat with BLMIS was probably very comparable to what I would have earned had my money been invested in an index of S&P 500 stocks or other similar investment over the same period.

*Hon. Burton R. Lifland*  
*November 12, 2009*  
*Page 2 of 3*

I learned early in the case that the Trustee, Mr. Picard, had established a Hardship Program to allow those who qualified to receive priority in the processing of claims, including the SIPC reimbursement amount. Based on my dire financial condition, I made a request to participate in the Hardship program, and I was very pleased to learn that the Trustee was kind enough to approve me for hardship status. I would learn later, however, that my status would offer me no refuge, at least if the Trustee's methodology for determining my claim amount is upheld by the Court.

On October 16<sup>th</sup>, I received from the Trustee a Determination Letter denying my claim of \$487,952.65<sup>1</sup> in its entirety based on application of the "net equity rule". Please consider this letter my objection to the Trustee's determination that my claim should be disallowed altogether. While I do not take any position concerning standards applied to other claimants, under my very unique circumstances, including the length of time my money was invested and the relatively modest "returns" I made on those investments over the years, I feel that to allow the Trustee to apply that rule to my claim would result in a terrible injustice to me vis a vis other claimants and should not be accepted as the methodology for resolving my claim. In my judgment, my final statement balance of approximately \$488,000 represents the proper measure of the damages I suffered as a result of this fraud and that is the amount of the claim I should be permitted to assert. It is important to say, however, that I take this position -- not because this was my final statement balance -- but because it accurately reflects, if only by coincidence, something resembling the actual damages I suffered as a result of this horrendous crime.

Though I would certainly benefit if the court were to require the trustee to use the "final statement balance" of each customer as the appropriate measure of our claims -- and I understand that is a question being separately considered by the court at a hearing to be held on February 2<sup>nd</sup>, 2010 -- I do not see how this standard could prove to be a fair one. Given the immense disparity with which fictitious returns were doled out and the sheer randomness of stated returns for each claimant, this approach would create immense advantage for those claimants "lucky enough" to have received oversized returns of fictitious profits, and would lead to many similar claimants receiving very different outcomes. By the same token, however, the "net-equity" rule, if applied blindly across all categories of claims, would necessarily lead to unfair and inequitable results for people such as me. How is that two people who invested the same dollar amount, one, like me, in 1994 and the other in 2007, and made the same withdrawals at the same time should be treated the same for purposes of establishing their claim?

It seems to me that using any "cookie-cutter" approach -- be it final statement balance, net-equity, or something else--with such an immense group of claimants, no two of which are remotely alike, would by necessity create truly unfair results in some cases that would seem counter to the goals and policies of the Bankruptcy laws. If the court feels that a one size fits all approach has to be

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<sup>1</sup> The Determination Letter indicated that the amount of the claim I was asserting was \$0.29 rather than the final statement balance of approximately \$488,000. I see now that I somehow misunderstood the instructions on the claim form and did not put the correct claim amount on the correct line of the short claim form. I did, however, include with my claim form a copy of my final BLMIS statement which clearly showed a final account balance of \$487,952.65 (see attached). I do not think there was any question in anyone's mind what I was seeking, or that the \$0.29 amount was a proper reflection of my claim. I would ask that for purposes of considering my claim and the Trustee's determination, that the Court consider the amount I am asserting to be \$487,952.65 as per the statement attached to my claim form.

*Hon. Burton R. Lifland*  
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*Page 3 of 3*


and policies of the Bankruptcy laws. If the court feels that a one size fits all approach has to be employed, if only to keep the claims administration process somewhat manageable, then I suggest a better alternative to either the final statement or net-equity rule would be to apply a single, uniform rate of return that would be applied to each claimant's actual investments over the period they remained in the brokerage accounts. Monies invested earlier and left in the accounts longer would result in a higher imputed value than those invested later or for shorter periods of time. At least as between the claimants themselves, this would seem to represent the fairest way to ensure that similarly situated claimants be treated similarly.

In my opinion, no single formula should be blindly applied to all claims, but rather, each claim should be evaluated on its merits. Perhaps the court could employ a "presumptive rule" in which a single formula is used unless the claimant comes forward with compelling reasons the formula shouldn't apply in that person's case. In my own case, I hope the Court would conclude that such an approach would lead to an allowed claim of approximately \$488,000, rather than the \$0 calculated by the Trustee.

I would like to conclude this letter by pointing out to the court one last factor which, in addition to the above, makes a compelling case for allowing my claim to be evaluated outside the rigid confines of the net equity rule, even if that rule were applied generally to most other claimants. Whether my claim is allowed at \$488,000, as I have requested, or disallowed in its entirety, there will be no adverse impact on the estate whatsoever, and no other claimant's recovery will be affected by one penny. That is because 100% of the amount of my loss is within SIPC reimbursement levels. For this reason alone, there is no reason to lump me with all other claimants when my own claim's determination will have no impact on those I am being lumped with. When combined with other equitable factors in my favor, including my Hardship status and the circumstances surrounding my investments with BLMIS, I believe the case for treating my claim in the manner suggested in this letter is not only compelling, but is the fairest and most equitable result.

For the reasons stated above, I believe that my claim should be allowed in the amount of \$487,952.65, and I respectfully request that the court allow my claim in that amount.

Sincerely,



Lillian Gilden

cc: Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
45 Rockefeller Plaza  
New York, NY 10111

Clerk of the United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
New York, NY 10004

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*Lillian Gilden, Claim No. 000819*  
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*Page 3 of 3*

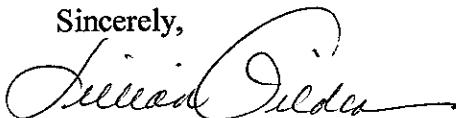
and policies of the Bankruptcy laws. If the court feels that a one size fits all approach has to be employed, if only to keep the claims administration process somewhat manageable, then I suggest a better alternative to either the final statement or net-equity rule would be to apply a single, uniform rate of return that would be applied to each claimant's actual investments over the period they remained in the brokerage accounts. Monies invested earlier and left in the accounts longer would result in a higher imputed value than those invested later or for shorter periods of time. At least as between the claimants themselves, this would seem to represent the fairest way to ensure that similarly situated claimants be treated similarly.

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Sincerely,



Lillian Gilden

cc: Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
45 Rockefeller Plaza  
New York, NY 10111

Clerk of the United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
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**BERNARD L. MADOFF**  
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YOUR ACCOUNT NUMBER  
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YOUR TAX PAYER IDENTIFICATION NUMBER  
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11/12	690		7170	EXXON MOBIL CORP	14.510	45,939.40	
11/12	330		11496	INTEL CORP	59.580	10,038.90	
11/12	450		15822	JOHNSON & JOHNSON	38.530	19,674.40	
11/12	240		20147	J.P. MORGAN CHASE & CO	44.660	17,356.50	
11/12	140		24473	COCA COLA CO	55.370	10,727.40	
11/12	260		28799	MCDONALDS CORP	28.550	7,756.80	
11/12	950		33125	MERCK & CO	21.810	20,757.50	
11/12	480		37451	MICROSOFT CORP	17.300	8,323.00	
11/12	190		50429	ORACLE CORPORATION	56.410	10,724.90	
11/12	110		50931	PEPSICO INC	100.780	11,089.80	
11/12	810		54755	APPLE INC	16.940	13,753.40	
11/12	190		55257	PFIZER INC	54.610	10,382.90	
11/12	360		59081	ABBOTT LABORATORIES	64.080	23,082.80	
11/12	130		59583	PROCTER & GAMBLE CO	59.160	7,695.80	
11/12	250		63407	AMGEN INC	43.600	10,910.00	
11/12	600		63909	PHILLIP MORRIS INTERNATIONAL	21.590	12,978.00	
11/12	200		67733	BANK OF AMERICA	33.770	6,762.00	
11/12	650		68235	QUALCOMM INC	12.510	8,157.50	
11/12	150		72059	CITI GROUP INC	49.490	7,428.00	
11/12	360		72561	SCHLUMBERGER LTD	16.510	5,957.60	
11/12				COMCAST CORP			
11/12				CL A			

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PAGE 2

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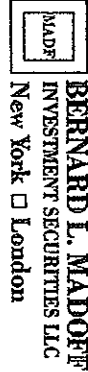
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3

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11/19	25,000		54988	U S TREASURY BILL DUE 03/26/2009 3/26/2009	99.926	24,981.50	
11/19	22,377		59392	FIDELITY SPARTAN U S TREASURY MONEY MARKET	1	22,377.00	
				NEW BALANCE		56,946.33	
				SECURITY POSITIONS			
	710			AT&T INC	MKT PRICE 28.560		
	190			ABBOTT LABORATORIES	52.390		
	130			AMGEN INC	55.540		
	110			APPLE INC	92.670		
	600			BANK OF AMERICA	16.250		
	250			CHEVRON CORP	79.010		
	730			CISCO SYSTEMS INC	16.540		
	650			CITI GROUP INC	8.290		
	240			COCA COLA CO	46.870		
	360			COMCAST CORP	17.340		
	180			CL A			
	630			CONOCOPHILLIPS	52.520		
	1,270			EXXON MOBIL CORP	80.150		
				GENERAL ELECTRIC CO	17.170		
				CONTINUED ON PAGE 4			



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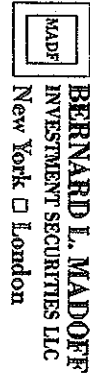
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	300			HEWLETT PACKARD CO	35.280		
	690			INTEL CORP	13.800		
	170			INTERNATIONAL BUSINESS MACHS	81.600		
	450			J.P. MORGAN CHASE & CO	31.660		
	330			JOHNSON & JOHNSON	58.580		
	140			MCDONALDS CORP	58.750		
	260			MERCK & CO	26.720		
	950			MICROSOFT CORP	20.220		
	480			ORACLE CORPORATION	16.090		
	190			PEPSICO INC	56.700		
	810			PFIZER INC	16.430		
	250			PHILLIP MORRIS INTERNATIONAL	42.160		
	360			PROCTER & GAMBLE CO	64.350		
	200			QUALCOMM INC	33.570		
	150			SCHLUMBERGER LTD	50.740		
	22,377			FIDELITY SPARTAN	1		
	210			U S TREASURY MONEY MARKET	26.980		
	120			U S BANCORP	57.600		
	25,000			UNITED PARCEL SVC INC	99.971		
	120			CLASS B			
				U S TREASURY BILL			
				DUE 03/26/2009			
				3/26/2009			
				UNITED TECHNOLOGIES CORP	48.530		

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\*\*\*\*\* THIS STATEMENT END MESSAGE MAY BE DISPOSED



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
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	340 260 420			VERIZON COMMUNICATIONS WAL-MART STORES INC WELLS FARGO & CO NEW MARKET VALUE OF SECURITIES LONG 487,952.65 SHORT	32.650 55.880 28.890		

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INVESTMENT SECURITIES LLC  
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				YEAR-TO-DATE SUMMARY DIVIDENDS GROSS PROCEEDS FROM SALES			3,336. 3,691,823.